

## **VAT refund/recovery in Hungary for foreign taxpayers registered in the EU**

Tax subjects from the European Community can recover VAT in Hungary under the following rules.

### **1. VAT refund process for foreign (EU) taxpayers**

The Hungarian VAT Act of 2008 contains several limitations on the refund of VAT by taxpayers registered in the EU in compliance with the applicable EU regulations (VAT Act Chapter XVIII). As a condition of tax refund/recovery in Hungary, the EU tax subject

1. cannot be a taxpayer established in Hungary for business purposes, or
2. may not sell goods or supply services in the domestic territory with the exception of
  - a. certain tax-free transportation of goods and the supply of services, which are additional to such transportation of goods,
  - b. certain tax-free transportation of persons,
  - c. the sale of goods combined with assembly or compilation, providing that the acquirer of the goods or user of the service is obliged to pay tax.

Before entering into transactions involving VAT refund/recovery in Hungary it is worth while examining with a tax advisor if the above conditions are fulfilled. If they are not fulfilled, then in most cases the foreign (EU) taxpayer must register under Hungarian VAT to receive a refund. This is the case for example when the foreign (EU) tax subject is selling goods in Hungary which it purchased in Hungary, although it does not have an office or representative in Hungary. In some cases even the storage of goods in Hungary and a subsequent transportation away from Hungary may cause an obligation for the foreign (EU) tax subject to register under VAT in Hungary.

The foreign (EU) taxpayer is entitled to the right to tax refund, to the extent any goods acquired or imported or services used in the domestic territory

- a. are used or utilised by it for tax-free supply of goods or services generating a right of tax deduction;
- b. are used or utilised by it for certain supply of goods or services where the acquirer of the goods or user of the service is obliged to pay tax.

It is an important factor in VAT refund that whenever foreign (EU) tax subject is a party eligible to VAT refund and it had an obligation to pay consideration, the VAT can only be reclaimed and refunded once the payment obligation has been met. In other words, invoices can only be submitted for refund once they have been paid in full.

Any application for tax refund applicable to the calendar year may be submitted from 1 January of the subsequent year provided that the EUR 25 limit has been reached, whereby the application must be received by the competent agency of the state tax authority by 30 June of the same year. If this deadline is missed, no appeal may be

submitted. If the EUR 200 limit is reached, the application for VAT refund may be submitted more than once during the calendar year, too. The state tax authority decides on the application for tax refund within 6 months from the receipt of the application.

Our practical experience suggests with regard to tax refund cases involving foreign (EU) taxpayers that the tax refund usually takes place in the 6<sup>th</sup> month from the submission of the application. The conditions of the case are always examined very carefully by the tax authorities to filter out cases where tax refund is not due for any reason. It also forms part of the practical administration that the originals of the invoices based on which refund is requested must be submitted to the tax authority.

Before filing invoices for VAT refund/recovery in Hungary it is advisable to have them checked by a Hungarian tax advisor along with the transaction, to filter in advance if no refund can be made. Such cases include e.g., an error contained in the invoice issued by the Hungarian seller, based on which the tax authority refuses to refund the tax. This is the case also when a foreign (EU) taxpayer fails to register under the scope of the Hungarian VAT legislation. In this latter case the VAT cannot be refunded in the special procedure for foreign (EU) taxpayers.

## **2. VAT refund process for foreign (EU) taxpayers registered for VAT in Hungary**

If the foreign (EU) tax subject registers under the scope of the VAT legislation in Hungary, then it must file a tax return quarterly (for each quarter in the subsequent month). Returns must be filed monthly if the tax to be settled, aggregated from the beginning of the year, has a positive prefix and has reached HUF 1 million. The first monthly return must be filed for the month, which follows after the quarter in which the taxpayer reached the HUF 1 million limit.

VAT with a negative prefix may be reclaimed if the reclaimed VAT amount is higher than HUF 1 million in the case of monthly returns, or higher than HUF 250,000 in the case of quarterly returns.

The tax authority must refund to the taxpayer, by bank transfer, the reclaimed VAT within 30 days, or, if the amount of the negative VAT has reached HUF 500,000 then within 45 days from the due date of the VAT return.

In terms of VAT refund the rule, whereby VAT can only be reclaimed if the consideration payment obligation has already been met, also applies to taxpayers in Hungary.